

REMARKS/ARGUMENTS

This application has been reconsidered carefully in light of the Office Action dated as mailed on 05 February 2003. A careful reconsideration of the application by the Examiner in light of the foregoing amendments and the following remarks is respectfully requested.

5 This response is timely filed as it is filed within the three (3) month shortened statutory period for response to the outstanding Office Action.

10 There is no additional claim fee due for this Amendment because the total number of claims does not exceed the number of independent and dependent claims for which fees have previously been paid. Further, with regard to the subject matter of any canceled claims, Applicants respectfully reserve the right to pursue claims relating to such subject matter in an appropriately filed continuing application.

Claims 28-30, 32-43, 45, 46, 48-52 and 54-55 and 57-59 remain in the application.

Amendment to the Claims

15 By the above,

1. Claims 28, 45 and 54 have been rewritten to recite that the gasket element includes a face portion, at least one base portion and at least one thrust portion, to clarify that it is the thrust portion that comprises the compression resistant member, and to recite that the compression resistant member is discrete. Further,

claim 34 has been rewritten to recite that each of the pair of opposed thrust portions comprises a discrete compression resistant member. Such rewritten claims are supported in the specification such as on page 18, lines 1-11 and also by FIGS. 5 and 6. Specifically, FIG. 5 shows a discrete compression resistant member 136 associated with the thrust portions (leg portions) 132 and FIG. 6 shows discrete compression resistant members 166 associated with the thrust portions (leg portions) 162.

2. Claims 32 and 35 have each been respectively rewritten to delete “a soft” and to insert “an inner” before “covering.” Such rewritten claims find support in the specification such as on page 18, line 20 to page 19, line 2, for example.

3. Claims 43 and 52 have been rewritten to delete recitations of “leg member” for consistency with independent claim 28.

4. Claim 46 has been rewritten for consistency with rewritten underlying claim 45.

5. Claims 47 and 56 have been canceled without prejudice.

Summary of 02 April 2003 Interview

The undersigned wishes to thank Examiner Reichle for the many courtesies extended during the above-identified telephonic interview.

Matters discussed in the referenced interview included: the outstanding Office Action dated 05 February 2003 and, more particularly, U.S. Patent 3,951,150

to Schaar (hereinafter "Schaar") and possible amendments to the claims to more clearly differentiate the claimed invention from the prior art.

The Examiner suggested that amending the claims to more clearly set forth the structure of the gasketing assembly by reciting the base portion, face portion and the thrust portion, and also to recite a "discrete" compression resistant member associated only with the thrust portion may be helpful in patentably distinguishing the subject invention development from Schaar.

Although no specific agreement was reached, Applicants offer the above amendments and the following comments.

Objections to the Claims

1. The Action states in paragraph 2 on page 2 that claims 32 and 38 are objected to because of informalities.

Regarding claim 32, the Action states that after "member," --thrust portion-- should be inserted. Claim 32 depends from claim 28. Claim 28 has been herein above rewritten to recite that the at least one thrust portion includes at least one compression resistant member. Therefore, the insertion of --thrust portion-- should no longer be necessary and notification to that effect is solicited..

Regarding claim 38, the Action states that "a" should be --the--.. Claim 38 recites "a body of the wearer." Claim 38 depends on claim 37. Claim 37 depends on claim 36, which in turn depends on claim 28. Although claim 28, as above

amended herein, recites “a waist of a wearer” and “a bodyfacing surface,” neither claim 28 nor either of the intervening claims 36 or 37 recite “a body of the wearer.” Therefore, if “a” were changed to --the-- in claim 38, it would appear that there would be no proper antecedent for “the body” of the wearer

5 In view of the above, such basis of objection is not believed appropriate and reconsideration of such objection is requested.

2. The Action states in paragraph 4 on pages 2-3 that should claims 28 and 33 be found allowable, claims 30 and 34 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof.

10 Reconsideration of each such “conditional” objection is respectfully requested.

Claim 30 requires that “the gasket element face portion deploys **adjacent** the rear waist of the wearer.” (Emphasis added.) Claim 30 depends on claim 28.

15 Claim 28, as above amended, states that “the at least one thrust portion effective to deploy the gasket element face portion **toward** the rear waist of the wearer.” (Emphasis added.)

20 The specification clearly distinguishes between “toward” and “adjacent.” As stated on page 16, lines 3-5, “the face portion 96 of the gasketing assembly element 74 is thrust or otherwise projected, as signified by the arrows 104,

in a direction away from the stretchable band 60 and **towards, preferably adjacent,** the body of the wearer.” (Emphasis added.) It is clear from this text that the word “toward” is not a substantial duplicate of the word “adjacent.”

5 In addition and as previously submitted by way of the “Amendment After Final Rejection” dated 09 August 2002, THE AMERICAN HERITAGE DICTIONARY OF THE ENGLISH LANGUAGE definitions of the terms “toward” and “adjacent” are enclosed herewith for the Examiner’s benefit. As stated in these definitions, “toward” is a preposition meaning “in the direction of.” “Adjacent” is an adjective meaning “close to; next to; lying near; adjoining.”

10 It is respectfully submitted that deployment “toward” the rear waist of the wearer, as required in claim 28, is not the same as deployment “adjacent” the rear waist of the wearer, as required by claim 30. For example, a gasket element face portion can be deployed “**toward** the rear waist of the wearer” without necessarily being deployed “**adjacent** the rear waist of the wearer.”

15 In view of the above, such basis of objection is not believed appropriate and reconsideration of the assertion that claim 30 is a substantial duplicate of claim 28 is requested.

With respect to claim 34, this claim has been above rewritten to require that each of the pair of opposed thrust portions comprises a discrete compression resistant member. Claim 34 serves to further limit claim 33 and is not believed to be a “substantial” duplicate thereof.

5 In view of the above, such basis of objection is not believed appropriate and reconsideration of the assertion that claim 34 is a substantial duplicate of claim 33 is requested.

Claim Rejections - 35 U.S.C. §112

10 In paragraph 3 on page 2 of the Office Action, claims 34-35 were rejected under 35 U.S.C. §112, second paragraph, as being indefinite for allegedly failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

15 By the above, claims 34 and 35 as well as underlying independent claim 28 have each been rewritten such that these rejections of claims 34 and 35 are overcome or clearly no longer appropriate and notification to that effect is solicited.

Claim Rejections - 35 U.S.C. §102(b)

Claims 28-30, 32-43, 45-52 and 54-59 were rejected under 35 U.S.C. 102(b) as being anticipated by Schaar.

20 These rejections of claims 47 and 56 are obviated by the above cancellation of these claims.

These rejections of claims 28-30, 32-43, 45, 46, 48-52, 54-55 and 57-59 are respectfully traversed.

The Office Action indicates that Schaar teaches a compression resistant member as at least a portion of panels A, B, D, E of the gasketing assembly 48 (“end section”) and that multiple layers (i.e., the topsheet and the backsheets), and optionally the absorbent pad, would resist compression.

Independent claims 28, 45 and 54 have each been rewritten to require that the gasketing assembly includes a face portion, at least one base portion, and at least one thrust portion, with the thrust portion including a discrete compression resistant member. The discrete compression resistant member, as shown in Applicants’ FIGS. 5-6, is included only with the thrust portion. No discrete compression resistant member is included with either the face or base portions.

As described in the specification on page 18, lines 3-11, the compression resistant member is rigid and can be composed of a plastic sheet material such as polyurethane or polyethylene or a stiff paper product such as cardboard or the like. By including the compression resistant member only with the thrust portions, and not the face portion or the base portions, the rigidity of the gasketing assembly element can be localized to the thrust portion, or intermittent (i.e., located only at the thrust portions) across the span of the gasketing assembly element. In addition, the flexibility of the face portion can be maintained by including the compression

resistant member with only the thrust portions as a rigid face portion would be uncomfortable against the back of the wearer of the absorbent article.

Schaar does not disclose a gasketing assembly element having a face portion, at least one base portion and at least one thrust portion, with only the thrust portion having a discrete compression resistant member associate therewith. Moreover, Schaar does not contemplate such localization of rigidity in the end section 48 of the diaper thereof, in direct contrast to absorbent articles and methods herein claimed.

Conclusion

It is believed that the above Amendment places all pending claims in condition for allowance and notification to that effect is solicited. However, should the Examiner detect any remaining issue or have any question, the Examiner is kindly requested to contact the undersigned to schedule a telephone interview to discuss the merits of any remaining issue the Examiner may identify to expedite examination of the application.

Respectfully submitted,



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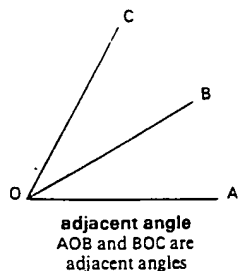
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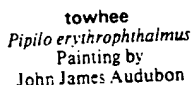
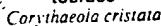
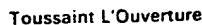
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have charge of formal way: to administer a justice. 4. To will or an official oath. 5. To administer. 6. *pleasure*. [M *minister*, from *ministrare*, to pendix*].] — (*trant*) *adj.* & *ad-min-is-trate*. To administer. *ad-min-is-trate*. management of the exercise of persons collected government. 1. institution, public office of an executive and disposal of tendering of service. — *ad-mis-* *ad-min-is-trate*. 1. One who appointed to a position. — *ad-mis-sible* (*ad-mis-sion*). — *ad-mis-sion* (*ad-mis-sion*). 1. fleet. 2. *Abbr.* 3. In the U.S. Navy: a. *Abbr.* b. A high-rank; both of which. 5. Chiefly British brightly colored sa [Middle E *raîls* (reshaped French *amiral*, commander, EN *Admiral* of the Royal Canadian field marshal. A *ad-miral-ty* (*ad-miral-ty*). exercising jurisdiction. 2. *Capital* (Board of Admiralty). *Admiralty* Inlet. Washington. *Admiralty* Island. miles, in the A. Population, 19,000. *Admiralty* Island. 800 square miles part of the Bismarck. *Admiralty* Range. Antarctica, north. *ad-mi-ra-tion* (*ad-mi-ra-tion*). order, and approval. *prince*... is the Wortley Montagu regard. *ad-mire* (*ad-mire*). with wonder, pleasure; to esteem; to enter. 1. To feel pleasure; to do it" (Louisa H. *ad-mi*, to, at + *m*). *ad-mi*-in. Appendix. *ad-mis-si-ble* (*ad-mis-si-ble*). allowable. 2. *W*. *ad-mis-si-ble-ty*, *ad-mis-si-ble-ty*. *ad-mis-si-ble-ty* (*ad-mis-si-ble-ty*). note to enter. b. note at *admission*. note at *admission*. entrance fee. See process of acceptance. appointment. 5. voluntary acknowledgment. statement granted *admission*. from *admission*). ADMIT *Admission* Day. states of the United admissions to *ad-mit* (*ad-mit*). to enter. 2. To *ad-mit* (*ad-mit*). the whole group. functions, or privilege. 5. To accommodate. 6. To acknowledge; concede. 8. To accept. 7. To grant as to afford possibility below. 2. To allow *door admits* to the





f/oi noise/ou out/oo voin/oo = 100%